

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO**

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Case Title: David Brian Derringer

Case Number: 04-17330

Document Information

Description: Order Granting [13-1] Motion For Relief From Stay As To Property of The Nevitts/Derringer by Mick Chapel .

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Submitted By: Patti Hennessy

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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO**

In re: DAVID DERRINGER,

No. 13-04-17330 MA

Debtor.

**ORDER TERMINATING AUTOMATIC STAY AS TO MICK CHAPEL AND
JENNIFER CHAPEL**

THIS MATTER is before the Court on the Chapels' Motion to Modify Automatic Stay ("Motion"). Following a final hearing on the Motion, the Court entered an Order on Chapels' Motion to Modify Automatic Stay on December 23, 2004 ("Order"). The Order conditioned the automatic stay on the Debtor complying with certain requirements for proceeding under Chapter 13 of the Bankruptcy Code, including the following:

- A. That the Debtor file and notice to all creditors an amended plan of reorganization no later than January 5, 2005;
- B. That the Debtor obtain a preliminary hearing to consider objections, if any, to the amended plan immediately upon the expiration of the period for filing objections; and
- C. That a plan of reorganization be confirmed no later than May 20, 2005.

The Order provided further that if the Debtor failed to comply with the deadlines contained in the Order, then, upon the filing of an affidavit by counsel for the Chapels that the Debtor had failed to comply, the Court would enter an order terminating the automatic stay. Joseph Manges and Stephen Long have each filed Affidavits of default in accordance with the Order. Based on the Affidavits¹ and

¹The Debtor files motions to strike the affidavits filed by Joseph Manges and Stephen Long. (Docket # 147, Docket #172, and Docket #182). The Court denied each of these motions. (Docket # 191, Docket # 192, Docket # 193).

the record of this proceeding, the Court finds that the Debtor has failed to comply with the terms of the Order, and cause therefore exists to lift the automatic stay.

Although the Debtor filed an amended plan of reorganization that was noticed to all creditors in accordance with the terms of the Order, the deadline for objections has passed, objections were filed, and no preliminary hearing on confirmation has been set. It is well past May 20, 2005, and no plan of reorganization has been confirmed. Nor has Debtor filed a motion to extend the time within which to confirm a plan. Although Debtor has appealed several orders issued by this Court in connection with this bankruptcy proceeding, no stay pending appeal has been granted.

WHEREFORE, IT IS HEREBY ORDERED, that the automatic stay imposed by 11 U.S.C. § 362 is terminated as to Mick Chapel and Jennifer Chapel.



MARK B. McFEELEY

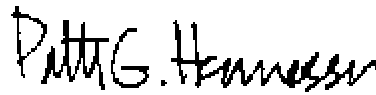
United States Bankruptcy Court

I certify that on the date shown on the attached document verification, a true and correct copy of the foregoing was either electronically transmitted, faxed, delivered or mailed to the listed counsel and/or parties.

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